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2 **So Ordered.**



Patricia C. Williams
Patricia C. Williams
Bankruptcy Judge

3 **Dated: August 20th, 2013**

4
5 UNITED STATES BANKRUPTCY COURT
6 EASTERN DISTRICT OF WASHINGTON

7 In re:

DC No. 11-CV-364-RMP

8 LLS AMERICA, LLC,

Case No. 09-06194-PCW11

9 Debtor(s).

10 BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America, LLC,

Adversary No. 11-80295-PCW11

11 Plaintiff(s),

12 vs.

REPORT AND RECOMMENDATION
RE: PLAINTIFF'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANTS DAVE
WHALLEY AND JEN WHALLEY
(ECF NO. 529)

13 1418490 ONTARIO, LTD., et al.,

14 Defendant(s).

15
16 The Honorable Patricia C. Williams, sitting in the United States Bankruptcy
17 Court for the Eastern District of Washington, hereby files this Report and
18 Recommendation regarding plaintiff's Motion for Entry of Default Judgment Against
19 Defendants Dave Whalley and Jen Whalley (ECF No. 529) filed with the bankruptcy
20 court in this adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Withdrawing the Reference and Referring to Bankruptcy
3 Court for Further Proceedings entered on April 25, 2012 (ECF No. 28) in district court
4 case No. 11-CV-364-RMP.

5 The recommendation is that plaintiff's Motion for Entry of Default Judgment
6 Against Defendants Dave Whalley and Jen Whalley (ECF No. 529) be granted and
7 the attached Default Judgment be entered in this adversary proceeding. The basis for
8 this recommendation is that an Order of Default was entered by the bankruptcy court
9 on July 17, 2013 (ECF No. 478).

10 ///END OF REPORT AND RECOMMENDATION///

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

In Re:

LLS AMERICA, LLC,

Debtor.

BRUCE P. KRIEGMAN, solely in his
capacity as court-appointed Chapter 11
Trustee for LLS America LLC,

Plaintiff,

v.

1418490 ONTARIO, LTD., et al.,

Defendants.

US District Case No. 11-CV-364-RMP

Bankruptcy No. 09-06194-PCW11

Adversary No. 11-80295-PCW 11

**DEFAULT JUDGMENT AGAINST
DEFENDANTS DAVE WHALLEY
AND JEN WHALLEY**

JUDGMENT SUMMARY

Judgment Creditor: Bruce P. Kriegman, solely in his capacity as the
Liquidating Trustee under the Confirmed Plan of
the Debtor

Attorneys for Judgment Creditor: Witherspoon Kelley

DEFAULT JUDGMENT- 1

{S0746682; 1 }



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Judgment Debtor: Dave Whalley and Jen Whalley

Principal Amount of \$16,500.00 CAD
Judgment: \$ 250.00 US

Interest on Judgment: Weekly Average of One-Year Constant Maturity
(nominal) treasury yield as published by the
Federal Reserve System (28 USC § 1961)

This Court having previously entered an Order of Default against Defendants Dave Whalley and Jen Whalley (Adv. Doc. No. 478), and having reviewed the previously filed Memorandum of Authorities (Adv. Doc. No. 451) and Affidavit of Curtis Frye (Adv. Doc. No. 452), and the Affidavit of Shelley N. Ripley in Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully advised in the premises,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC, shall have a judgment against the Defendants Dave Whalley and Jen Whalley, individually and jointly and severally, as follows:

1. Monetary Judgment in the amount of CAD \$16,500.00, pursuant to 11 U.S.C. § 550 and RCW 19.40.071;

2. Transfers in the amount of CAD \$16,500.00 made to the Defendants within four years prior to the Petition Filing Date are hereby avoided and Plaintiff

DEFAULT JUDGMENT- 2

{S0746682; 1 }

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1 may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544,
2 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

3
4 3. All said transfers to Defendants Dave Whalley and Jen Whalley are
5 hereby set aside and Plaintiff shall be entitled to recover the same, or the value
6 thereof, from Defendants Dave Whalley and Jen Whalley for the benefit of the
7 estate of LLS America, pursuant to 11 U.S.C. §§ 544, 550 and 551;

8
9 4. A constructive trust is hereby established over the proceeds of all
10 transfers in favor of the Trustee for the benefit of the estate of LLS America; and

11
12 5. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of
13 \$250.00 USD, for a total judgment of CAD \$16,500.00, plus \$250.00 USD, which
14 shall bear interest equal to the weekly average of one-year constant maturity
15 (nominal) treasury yield as published by the Federal Reserve System.
16

17
18 Entered this ____ day of _____, 2013.

19
20
21 HONORABLE ROSANNA PETERSON

22 *Presented by:*

23
24 WITHERSPOON • KELLEY

25 s/ Shelley N. Ripley
26 Shelley N. Ripley, WSBA No. 28901
27 Daniel J. Gibbons, WSBA No. 33036
28 Attorneys for Bruce Kriegman, Chapter 11 Trustee

DEFAULT JUDGMENT- 3

{S0746682; 1 }



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